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Paul J. Lemens

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER

VANTERPOOL, LESTER L

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,761

Applicant(s)

LEMENS ET AL.

Examiner

Lester L. Vanterpool

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 23 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-11 & 13-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-11 and 13-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 – 7, 16 – 18, 22 - 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Homeyer (U.S. Patent Number 5664721) in view of Erhard (German Patent Number DE 199 43 095 A1). Homeyer discloses the harness (4 – 5) constructed to attach to a user's torso when the wearable device is worn in an operative position.

Homeyer also discloses the one or more retainers (11) positioned with respect to the harness (4 – 5) so as to be located adjacent to the user's back when the wearable device is worn in the operative position, the one or more retainers (11 & 3) are constructed to retain the portion of the elongated structure (30 & 40) between the opposing ends thereof.

Homeyer discloses the receptacle (2) constructed to receive one of the opposing ends of the elongated structure (30 & 40) (column 4, line 25 – 27) (See Figures 7 – 9).

Moreover, Homeyer discloses one or more support members (6 & 7) attaching the receptacle (2) to the harness (4 & 5) so as to suspend the receptacle (2) below the

one or more retainer (3) and the harness (4 & 5) when the wearable device is worn in the operative position (column 3, line 41 – 46). See Figures 1, 7 – 9.

Furthermore, Homeyer discloses the one or more retainers (3) and the receptacle (2) is arranged with respect to one another such that, when the wearable device is worn in the operative position, the one or more retainers (3) and the receptacle (2) cooperate to support the elongated structure (30 & 40) in the generally vertical orientation with (a) the lower one of the opposing ends of the elongated structure (30 & 40) received in the receptacle (2) so as to be supported by the receptacle (2) (column 4, line 24 – 27 & column 4, line 30 – 33) (See Figures 7 – 9), and (b) the one or more retainer (3) engaging a portion of the elongated structure (30 & 40) between the opposing ends thereof to retain the elongated structure (30 & 40) in the generally vertical orientation (See Figure 7 – 9).

However, Homeyer does not disclose the one or more support members are elongated and extend downwardly from the harness to suspend the receptacle at the position below the wearer's buttocks when the wearable device is worn in the operative position.

Erhard teaches the one or more support members (3) are elongated and extend downwardly (See Figure 1) from the harness (1) to suspend the receptacle (4) at the position below the wearer's buttocks when the wearable device is worn in the operative position (See Figure 1) for the purpose of transporting longer and larger sporting personal items.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the one or more support members are elongated and extend downwardly from the harness to suspend the receptacle at the position below the wearer's buttocks when the wearable device is worn in the operative position as taught by Erhard with the wearable device of Homeyer in order to enhance the ease of transporting larger and longer elongated personal sporting items.

Regarding claim 2, as stated above in claim 1, Homeyer discloses the one or more retainers (3 & 11) are constructed to permit limited lateral movement of the elongated structure (30 & 40) relative to the main body (1) (column 4, line 25 – 28 and column 4, line 30 - 33). See Figure 6 & 8.

Regarding claim 3, as stated above in claim 1, Homeyer discloses the harness (4 – 5) includes the main body (1) positioned so as to be located adjacent the user's back when the wearable device is worn in the operative position, the one or more retainers (11 & 3) is attached to the main body (1). See Figures 1, 2, & 7 – 9.

Regarding claim 4, as stated above in claim 3, Homeyer discloses the one or more support members (6 & 7) attach the receptacle (2) to the main body (1).

Regarding claim 5, as stated above in claim 4, Homeyer discloses the one or more support members (6 & 7) are one or more elongated members. See Figures 1, 2, 7 – 9.

Regarding claim 6, as stated above in claim 5, Homeyer discloses the one or more elongated members (6 & 7) includes the plurality of flexible straps (6 & 7) connected between the main body (1) and the receptacle (2) (column 3, line 40 – 44). See Figure 1.

Regarding claim 7, as stated above in claim 6, Homeyer disclose each of the flexible straps (6 & 7) have length adjusters (8a & 9b) to enable adjustment of a distance at which the receptacle (2) is suspended below the main body (1) when the wearable device is worn in the operative position. See Figures 1 & 2.

Regarding claim 16, as stated above in claim 1, Homeyer discloses the receptacle (2) is made of the flexible fabric (column 3, line 7 – 12) formed to define the pocket to receive one of the opposing ends of the elongated structure (30 & 40) (column 3, line 24 – 26). See Figures 7 – 9.

Regarding claim 17, as stated above in claim 6, Homeyer discloses the receptacle (2) is made of a flexible fabric (column 3, line 7 – 12) formed to define the

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pocket to receive one of the opposing ends of the elongated structure (30 & 40) (column 3, line 24 – 26). See Figures 7 – 9.

Regarding claim 18, as stated above in claim 7, Homeyer discloses the receptacle (2) is made of a flexible fabric (column 3, line 7 – 12) formed to define to receive one of the opposing ends of the elongated structure (30 & 40) (column 3, line 24 – 26). See Figures 7 – 9.

Regarding claim 22, as stated above in claim 3, Homeyer discloses each of the one or more retainers (11 & 3) defines an opening that faces generally vertically when the wearable device is worn in the operative position, the generally vertically facing opening enabling the elongated structure (30 & 40) to be received therein and extend therethrough. See Figures 7 – 9.

Regarding claim 23, as stated above in claim 22, Homeyer discloses each of the one or more retainers (11 & 3) includes the loop (11 & 3) attached to the main body (1), the loop (11 & 3) defining the generally vertically facing opening. See Figures 1, 2, 7 – 9.

Regarding claim 24, as stated above in claim 23, Homeyer discloses each loop (11) includes the pair of separable members (12a & 12b) that releasably attach to one another, the releasable attachment of each loop (11) enabling the separable members

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(12a & 12b) to be separated to open the associated loop (11) and accommodate radial receipt of the elongated structure (30 & 40) into the opening thereof, and also enabling the separable members (12a & 12b) to be re-attached to close the associated loop (11) and retain the elongated structure (30 & 40) (column 4, line 1 - 10). See Figures 3 & 4. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make each loop include the pair of separable members, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 25, as stated above in claim 24, Homeyer discloses the separable members (12a & 12b) of each loop (11) are flexible. See Figures 3 & 4. However, Homeyer does not disclose each loop. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make separable members on each loop, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 26, as stated above in claim 25, Homeyer discloses the releasable attachment of each loop (11) is provided by a hook and pile fastener having a plurality of hooks on one separable member (12a) and a pile on the other separable member (12b) (column 4, line 1 - 10). See Figures 3 & 4. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make

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releasable attachment of each loop, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 27, as stated above in claim 25, Homeyer discloses each loop (11) is defined by the strap (11) and wherein the separable members (12a & 12b) are the opposing ends of the strap (11) (column 4, line 3). See Figure 3.

Regarding claim 28, as stated above in claim 27, Homeyer discloses the releasable attachment of each loop is provided by hook and pile fasteners having a plurality of hooks on one end of the strap (12a) and a pile on the other end of the strap (12b) (column 4, line 1 – 10). See Figure 3 & 4. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make releasable attachment of each loop, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 29, as stated in claim 22, Homeyer discloses each of the one or more retainers (11) includes the pair of separable members (12a & 12b) that releasably attach to one another (See Figure 3 & 4), the releasable attachment of each retainer (11) enabling the separable members (12a & 12b) to be separated to open the associated retainer (11) and accommodate radial receipt of the elongated structure (30

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& 40) in to the opening thereof, and also enabling the separable member (12a & 12b) to be re-attached to close the associated retainer (11) and retain the elongated structure (30 & 40) (column 4, line 1 – 10). See Figures 3 & 4.

Regarding claim 30, as stated above in claim 29, Homeyer discloses the separable members (12a & 12b) of each loop (11) are flexible. See Figures 3 & 4. However, Homeyer does not disclose separable members on each loop. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make separable members on each loop, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 31, as stated above in claim 30, Homeyer discloses the releasable attachment (12a & 12b) of retainer (11) is provided by the hook and pile fastener having a plurality of hooks on the one separable member (12a) and the pile on the other separable member 12(b). See Figures 3 & 4. However, Homeyer does not disclose each retainer is provided by the hook and pile fastener. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make each loop provided by the hook and pile fastener, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 32, as stated above in claim 30, Homeyer discloses each of the one or more retainers (11 & 3) includes loop attached to the main body (1) with the loop defining the generally vertically facing opening, the separable members (12a & 12b) are parts of the loop (11 & 3). See Figures 1 - 9.

Regarding claim 33, as stated above in claim 32, Homeyer discloses each loop (11) is defined by the strap (11) and wherein the separable members (12a & 12b) are the opposing ends of the strap (11) (column 4, line 1 – 10). See Figure 3 & 4.

Regarding claim 34, as stated above in claim 34, Homeyer discloses the releasable attachment of each loop is provided by hook and pile fasteners having a plurality of hooks on the one end of the strap (12a) and a pile on the other end of the strap (12b) (column 4, line 1 – 10). See Figure 3 & 4. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make releasable attachment of each loop, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 35, as stated above in claim 9, Homeyer discloses each of the one or more retainers (11 & 3) defines an opening that faces generally vertically when the wearable device is worn, the generally vertically facing opening enabling the

elongated structure (30 & 40) to be received therein and extend therethrough. See Figure 1 – 9.

Regarding claim 36, as stated above in claim 35, Homeyer discloses each of the one or more retainers (11 & 3) includes the loop attached to the main body (1), the loop defining the generally vertically facing opening. See Figure 1.

Regarding claim 37, as stated above in claim 36, Homeyer discloses loop includes the pair of releasably attach to one another, the releasable attachment of each loop enabling the separable member (12a & 12b) to be separated to open the associated loop and accommodate radial receipt of the elongated structure (30 & 40) into the opening thereof, and also enabling the separable members (12a & 12b) to be re-attached to close the associated loop and retain the elongated structure (30 & 40) (column 4, line 1 – 10) See Figures 3 & 4. However, Homeyer does not disclose each loop includes the pair of releasably attach to one another. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make each loop including the pair of releasably attach to one another, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 38, as stated above in claim 37, Homeyer discloses the separable members (12a & 12b) of each loop (11) are flexible (column 1, line 1 – 10).

See Figures 3 & 4. However, Homeyer does not disclose each loop. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make separable members on each loop, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 39, as stated above in claim 38, Homeyer discloses the releasable attachment (12a & 12b) of each loop (11) is provided by a hook and pile fastener having a plurality of hooks on one separable member (12a) and a pile on the other separable member (12b) (column 4, line 1 – 10). See Figures 3 & 4. However, Homeyer does not disclose each retainer is provided by the hook and pile fastener. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make each loop provided by the hook and pile fastener, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 40, as stated above in claim 38, Homeyer discloses each loop is defined by a strap (11) and wherein the separable members (12a & 12b) are the opposing ends of the strap (column 4, line 1 – 10). See Figures 3 & 4.

Regarding claim 41, as stated above in claim 40, Homeyer discloses the releasable attachment (12a & 12b) of each loop (11) is provided by hook and pile

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fasteners having a plurality of hooks on one end of the strap (12a) and a pile on the other end of the strap (12b) (column 4, line 1 – 10). See Figures 3 & 4.

Regarding claim 42, as stated above in claim 35, Homeyer discloses each of the one or more retainers (11) includes a pair of separable members (12a & 12b) that releasably attach to one another, the releasable attachment of each retainer (11) enables the separable member (12a & 12b) to be separated to open the associated retainer (11) and accommodate radial receipt of the elongated structure into the opening thereof, and also enabling the separable members to be re-attached to close the associated retainer (11) and retain the elongated structure (30 & 40) (column 4, line 1 – 10). See Figures 1, 3 & 4.

Regarding claim 43, as stated above in claim 42, Homeyer discloses the separable members (12a & 12b) of each retainer are flexible. See Figures 3 & 4.

Regarding claim 44, as stated above in claim 43, Homeyer discloses the releasable attachment (12a & 12b) of each retainer (11) is provided by a hook and pile fastener having a plurality of hooks on one separable member (12a) and a pile of the other separable member (12b) (column 4, line 1 – 10). See Figures 3 & 4.

Regarding claim 45, as stated above in claim 43, Homeyer discloses each of the one or more retainers (11) includes a loop (11) attached to the main body (1) with the

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loop defining the generally vertically facing opening, the separable members (12a & 12b) are parts of the loop (11) (column 4, line 1 – 10). See Figures 1, 3 & 4.

Regarding claim 46, as stated above in claim 45, Homeyer discloses each loop (11) is defined by a strap (11) and wherein the separable members (12a & 12b) are the opposing ends of the strap (11) (column 4, line 1 – 10). See Figures 3 & 4.

Regarding claim 47, as stated above in claim 46, Homeyer discloses the releasable attachment of each loop (11) is provided by hook and pile fasteners having a plurality of hooks and one end (12a) of the strap (11) and a pile on the other end (12b) of the strap (11) (column 4, line 1 – 10). See Figures 1, 3 & 4.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8 – 15, & 19 - 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Homeyer (U.S. Patent Number 5664721) as applied to claim 6 above, and further in view of Jensen (U.S. Patent Number 5915606). Homeyer

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discloses the invention substantially as claimed. However, Homeyer does not disclose the length adjusters are buckles.

Jensen discloses the length adjusters (59 & 61) are buckles (column 3, line 7) for the purpose accommodating various users with various heights. See Figure 1 & 3. It would have been obvious to one having ordinary skill in the art at the time the made to make the wearable device of Homeyer with the buckles as taught by Jensen in order to accommodate various users with various heights.

Regarding claim 9, as stated above in claim 1, Jensen discloses the receptacle (11) is vertically adjustable (59 & 61) to enable adjustment of a distance at which the receptacle (11) is suspended below the harness (12) when the wearable device (10) is worn in the operative position for the purpose of accommodating various users with various heights. See Figures 1 & 3. It would have been obvious to one having ordinary skill in the art at the time the made to make the wearable device of Homeyer with the receptacle is vertically adjustable as taught by Jensen in order to accommodate various users with various heights.

Regarding claim 10, as stated above in claim 9, Homeyer discloses the harness (4 & 5) includes the main body (1) positioned so as to be located adjacent the user's back when the wearable device is worn in the operative position, the one or more retainers (11 & 3) are attached to the main body (1). See Figures 1 & 2.

Regarding claim 11, as stated above in claim 10, Homeyer discloses the one or more support members (6 & 7) attach the receptacle (2) to the main body (1).

Regarding claim 12, as stated above in claim 11, Homeyer discloses the one or more support members (6 & 7) are one or more elongated members. See Figures 1, 2, 7 – 9.

Regarding claim 13, as stated above in claim 13, Homeyer discloses the one or more elongated members (6 & 7) have length adjuster (8a & 9b) to enable adjustment of a distance at which the receptacle (3) suspends below the main body (1) when the wearable device is worn in the operative position.

Regarding claim 14, as stated above in claim 13, Homeyer discloses wherein the one or more elongated members (6 & 7) include the plurality of flexible straps (6 & 7) connected between the main body (1) and the receptacle (2) (column 3, line 40 – 44). See Figure 1.

Regarding claim 15, as stated above in claim 14, Jensen discloses the length adjusters are buckles (59 & 61) (column 3, line 7) for the purpose accommodating various users with various heights. See Figure 1 & 3. It would have been obvious to one having ordinary skill in the art at the time the made to make the wearable device of

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Homeyer with the buckles as taught by Jensen in order to accommodate various users with various heights.

Regarding claim 19, as stated above in claim 9, Homeyer discloses the receptacle (2) is made of a flexible fabric (column 3, line 7 – 12) formed to define the pocket to receive one of the opposing ends of the elongated structure (30 & 40) (column 3, line 24 – 26). See Figures 7 – 9.

Regarding claim 20, as stated above in claim 13, Homeyer discloses the receptacle (2) is made of a flexible fabric (column 3, line 7 – 12) formed to define the pocket to receive one of the opposing ends of the elongated structure (30 & 40) (column 3, line 24 – 26). See Figures 7 – 9.

Regarding claim 21, as stated above in claim 14, Homeyer discloses the receptacle is made of a flexible fabric (column 3, line 7 – 12) formed to define a pocket to receive one of the opposing ends of the elongated structure (30 & 40) (column 3, line 24 – 26). See Figures 7 – 9.

5. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Homeyer (U.S. Patent Number 5664721) as applied to claim 1 above, and further in view of Mullen (U.S. Patent Publication Number (U.S. 2002 / 0062510 A1). Ullal et al., and Homeyer discloses the invention substantially as claimed. Homeyer discloses the

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one or more retainers (3), the one or more support members (6 & 7) and the receptacle (2). Homeyer also discloses the one or more support members (6 & 7) and the receptacle (2) to be positioned exteriorly for the purpose of adequately retaining and storing elongated products for the purpose of transporting elongated items.

However, Homeyer do not disclose the an outer garment shell configured to cover a user's torso when the wearable device is worn in the operative position; the harness is an internal harness mounted interiorly of the outer garment shell; the one or more retainers, the one or more support members and the receptacle being located in one or more spaces defined between the internal harness an the outer garment shell; the outer garment shell having one or more access openings to access the one or more spaces to permit the one or more retainers, the one or more support members and the receptacle to be positioned exteriorly of the outer garment shell to use.

Mullen teaches the outer garment shell (10) configured to cover a user's torso when the wearable device is worn in the operative position; the harness (12) is an internal harness (12) mounted interiorly of the outer garment shell (10) (See Figure 4) for the purpose of wearing a protect coat for poor weather conditions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the garment shell as taught by Mullen with the wearable device of Homeyer in order to allow the user to wear a coat for poor weather conditions.

Mullen also teaches the outer garment shell (10) having one or more access openings (28 & 30) (Paragraph 0017) to access the one or more spaces to permit the one or more retainers (24 & 26) for the purpose of providing the user with access. It

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would have been obvious to one having ordinary skill in the art at the time the invention was made to make the garment with access openings as taught by Mullen with the wearable device as taught by Homeyer in order to provide the user with access to the internal harness from the garment exterior.

6. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mullen (U. S. Patent Publication Number 2002 / 0062510 A1) and in view of Homeyer (U.S. Patent Number 5664721). Mullen discloses the outer garment shell (10) configured to cover a user's torso when the wearable device is worn in an operation position (See Figure 4); wherein, an internal harness (12) mounted interiorly of the outer garment shell (10), the internal harness (12) is constructed to attach to the user's torso when the wearable device is worn in the operative position (See Figures 1, 2 & 4); wherein, the one or more supports (24 & 26) attached to the internal harness (12) so as to be located adjacent the user's back when the wearable device is worn in the operative position, the one or more supports (24 & 26) is located in one or more spaces (See Figure 3) defined between the internal harness (12) and the outer garment shell (10) (See Figures 3, 4 & 6), wherein, the outer garment shell (10) having one or more access openings (28 & 30) to access the one or more spaces to permit the one or more supports (24 & 26) to be positioned exteriorly of the outer garment shell (10) in use (See Figures 2, 3, 4, & 6).

However, Mullen does not disclose the one or more supports constructed to support the elongated structure on the harness in the generally vertical orientation

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thereof when positioned exteriorly, thus allowing the weight of the elongated structure to transfer to the user's torso via the harness.

Homeyer teaches the one or more support (6 & 7) constructed to support the elongated structure (30 & 40) on the harness (4 & 5) in the generally vertical orientation thereof when positioned exteriorly, thus allowing the weight of the elongated structure (30 & 40) to transfer to the user's torso via the harness for the purpose of transporting elongated items safely. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the one or more support constructed to support elongated structures on the harness as taught by Homeyer with the internal harness of Mullen in order to allow the user to transport elongated items safely while wearing protective clothing.

7. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mullen (U.S. Patent Publication Number 2002 / 0062510 A1) and in view of Homeyer (U.S. Patent Number 5664721).

Homeyer discloses the one or more retainers (11 & 3) attached to the harness (4 & 5), wherein the one or more retainers (11 & 3) are positioned with respect to the harness (4 & 5) so as to be located adjacent the user's back when the wearable device is worn in the operative position (See Figures 7 – 9), the one or more retainers (11 & 3) are constructed to retain a portion of the elongated structure (30 & 40) between the opposing ends thereof (See Figures 7 – 9);

Homeyer also discloses the receptacle (2) constructed to receive one of the opposing ends of the elongated structure (30 & 40).

In addition, Homeyer also discloses one or more support members (6 & 7) attached the receptacle (2) to the harness (4 & 5) so as to suspend the receptacle (2) below the one or more retainers (11 & 3) and the harness (4 & 5) when the wearable device is worn in the operative position.

Homeyer further discloses the one or more retainers (11 & 3) and the receptacle (2) are arranged with respect to one another such that, when the wearable device is worn in the operative position, the one or more retainers (11 & 3) and the receptacle (2) cooperate to support the elongated structure (30 & 40) in the generally vertical orientation with (a) the lower one (3) of the opposing ends of the elongated structure (30 & 40) is received in the receptacle (2) so as to be supported by the receptacle (2), and (b) the one or more retainers (11) engage a portion of the elongated structure (30 & 40) between the opposing ends thereof to retain the elongated structure in the generally vertical orientation.

However, Homeyer does not disclose the internal harness. Mullen teaches the internal harness (12) for the purpose of protecting the harness. It would have been obvious to one having ordinary skill in the art the time the invention was made to make the internal harness as taught by Mullen with the wearable devices of Homeyer in order to protect the harness from environmental weather conditions.

Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mullen (U.S. Patent Publication Number 2002 / 0062510 A1) in view of Homeyer (U.S. Patent Number 5664721) as applied to claim 50 above, and further in view of Erhard (German Patent Number DE 199 43 095 A1). Mullen and Homeyer disclose the invention substantially as claimed.

However, Mullen and Homeyer does not disclose the one or more support members are elongated and extend downwardly from the harness to suspend the receptacle at the position below the wearer's buttocks when the wearable device is worn in the operative position.

Erhard teaches the one or more support members (3) are elongated and extend downwardly (See Figure 1) from the harness (1) to suspend the receptacle (4) at the position below the wearer's buttocks when the wearable device is worn in the operative position (See Figure 1) for the purpose of transporting longer and larger sporting personal items.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the one or more support members are elongated and extend downwardly from the harness to suspend the receptacle at the position below the wearer's buttocks when the wearable device is worn in the operative position as taught by Erhard with the wearable device of Homeyer in order to enhance the ease of transporting larger and longer elongated personal sporting items.

Response to Arguments

3. Applicant's arguments with respect to claim 1 – 4, 6 – 11, 13 – 51 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing

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out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lester L. Vanterpool whose telephone number is 571-272-8028. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


JES F. PASCUA
PRIMARY EXAMINER

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be the initials 'LLV' in a stylized, cursive script.

September 5, 2005
LLV